

1-1 By: Kolkhorst, Middleton, Hughes S.B. No. 624  
 1-2 (In the Senate - Filed January 26, 2023; February 17, 2023,  
 1-3 read first time and referred to Committee on Business & Commerce;  
 1-4 April 18, 2023, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 7, Nays 3; April 18, 2023,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14		X		
1-15	X			
1-16		X		
1-17	X			
1-18	X			
1-19		X		

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 624 By: Kolkhorst

1-21 A BILL TO BE ENTITLED  
 1-22 AN ACT

1-23 relating to the permitting of renewable energy generation  
 1-24 facilities by the Public Utility Commission of Texas; authorizing  
 1-25 fees.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Chapter 35, Utilities Code, is amended by adding  
 1-28 Subchapter F to read as follows:

1-29 SUBCHAPTER F. RENEWABLE ENERGY GENERATION FACILITY PERMIT

1-30 Sec. 35.201. DEFINITIONS; APPLICABILITY. (a) In this  
 1-31 subchapter:

1-32 (1) "Permit holder" means a person who holds a permit  
 1-33 issued under this subchapter.

1-34 (2) "Person" includes an electric cooperative and a  
 1-35 municipally owned utility.

1-36 (3) "Renewable energy generation facility" means:

1-37 (A) a wind power facility as defined by Section  
 1-38 301.0001; or

1-39 (B) a solar power facility as defined by Section  
 1-40 302.0001.

1-41 (b) This subchapter applies to a renewable energy  
 1-42 generation facility regardless of whether the facility is the  
 1-43 subject of a wind power facility agreement or solar power facility  
 1-44 agreement entered into under Chapter 301 or 302.

1-45 Sec. 35.202. LEGISLATIVE POLICY AND PURPOSE. The  
 1-46 conservation and development of all the natural resources of this  
 1-47 state are declared to be public rights and duties. It is also  
 1-48 declared that the protection of the wildlife, water, and land of  
 1-49 this state against the impacts of renewable energy generation  
 1-50 facilities is in the public interest. In the exercise of the police  
 1-51 power of this state, it is necessary and desirable to provide  
 1-52 additional means so that the installation and removal of renewable  
 1-53 energy generation facilities is placed under the authority and  
 1-54 direction of the commission.

1-55 Sec. 35.203. PERMIT REQUIRED; APPLICATION. (a) A person  
 1-56 may not interconnect a renewable energy generation facility with a  
 1-57 capacity of 10 megawatts or more to a transmission facility unless:

1-58 (1) the person holds a permit to operate a renewable  
 1-59 energy generation facility issued by the commission under this  
 1-60 subchapter; or

2-1                   (2) the commission by order approves the construction.  
2-2           (b) A person may apply for a permit to operate a renewable  
2-3 energy generation facility by filing with the commission:  
2-4                   (1) a description of the location of the facility;  
2-5                   (2) a description of the type of facility;  
2-6                   (3) a copy of any information filed with the Federal  
2-7 Energy Regulatory Commission in connection with registration with  
2-8 that commission;  
2-9                   (4) any assumed business or professional name of the  
2-10 applicant filed under Chapter 71, Business & Commerce Code;  
2-11                   (5) an environmental impact review conducted by the  
2-12 Parks and Wildlife Department under Section 12.0012, Parks and  
2-13 Wildlife Code;  
2-14                   (6) any wind power facility agreement or solar power  
2-15 facility agreement applicable to the facility entered into under  
2-16 Chapter 301 or 302 by the applicant;  
2-17                   (7) the address of an Internet website that provides  
2-18 information about the proposed facility; and  
2-19                   (8) any other information required by commission rule,  
2-20 provided that in requiring that information the commission shall  
2-21 protect the competitive process in a manner that ensures the  
2-22 confidentiality of competitively sensitive information.  
2-23           (c) Notwithstanding Subsection (a), a person who  
2-24 interconnected a renewable energy generation facility to a  
2-25 transmission facility before September 1, 2023, must apply for a  
2-26 permit under this subchapter only if the person:  
2-27                   (1) increases the amount of electricity generated by  
2-28 the facility by five megawatts or more; or  
2-29                   (2) materially changes the placement of the renewable  
2-30 energy generation facility.  
2-31           Sec. 35.204. NOTICE AND MEETING. (a) The commission by rule  
2-32 shall require an applicant for a permit or a permit amendment to:  
2-33                   (1) provide notice of the application to the county  
2-34 judge of each county located within 25 miles of the boundary of the  
2-35 renewable energy generation facility that is the subject of the  
2-36 permit;  
2-37                   (2) hold a public meeting to obtain public input on the  
2-38 proposed permit or permit amendment; and  
2-39                   (3) after applying for the permit or permit amendment,  
2-40 publish for at least two consecutive publications in a newspaper of  
2-41 general circulation in each county in which the renewable energy  
2-42 generation facility that is the subject of the permit will be or is  
2-43 located a notice that includes:  
2-44                                   (A) the time and place of the public meeting; and  
2-45                                   (B) a link to a publicly accessible Internet  
2-46 website that provides information about the facility and  
2-47 information regarding the public meeting.  
2-48           (b) A public meeting held under this section must be held in  
2-49 a location that is:  
2-50                   (1) not more than 25 miles from the boundary of the  
2-51 renewable energy generation facility that is the subject of the  
2-52 permit; or  
2-53                   (2) if a suitable meeting place is not available in a  
2-54 location described by Subdivision (1), in the nearest suitable  
2-55 meeting location.  
2-56           (c) The commission may not approve or deny an application  
2-57 for a permit or permit amendment before the 30th day after the date  
2-58 the applicant conducts the public meeting required by this section.  
2-59           (d) Notwithstanding any other provision of this subchapter,  
2-60 the commission may approve an application to amend a permit without  
2-61 requiring a public meeting if:  
2-62                   (1) the applicant is not applying to:  
2-63                                   (A) significantly increase the amount of  
2-64 electricity generated under the permit; or  
2-65                                   (B) materially change the placement of the  
2-66 renewable energy generation facility;  
2-67                   (2) the commission determines that the applicant's  
2-68 compliance history raises no issues regarding the applicant's  
2-69 ability to comply with a material term of the permit; and

3-1                   (3) the commission:  
 3-2                   (A) gives notice of the application to the county  
 3-3 judge of each county and the governing body of each municipality in  
 3-4 which the facility is located at least 30 days before the date of  
 3-5 the commission's approval of the application; and  
 3-6                   (B) allows the county judges and governing bodies  
 3-7 to present information to the commission on the application.  
 3-8                   Sec. 35.205. APPROVAL OR DENIAL OF APPLICATION. (a) The  
 3-9 commission may approve an application only if the commission finds  
 3-10 that issuance or amendment of the permit would not violate state or  
 3-11 federal law or rule and would not interfere with the purpose of this  
 3-12 subchapter.  
 3-13                   (b) In considering an application for the issuance or  
 3-14 amendment of a permit, the commission shall consider the compliance  
 3-15 history of the applicant.  
 3-16                   (c) A permit holder does not have a vested right in a permit.  
 3-17                   Sec. 35.206. CONDITIONS OF PERMIT. (a) For each permit,  
 3-18 the commission shall prescribe the conditions under which it is  
 3-19 issued, including:  
 3-20                   (1) the boundary of the permitted facility location;  
 3-21                   (2) the maximum number of renewable energy generation  
 3-22 facilities authorized by the permit; and  
 3-23                   (3) any monitoring and reporting requirements  
 3-24 prescribed by the commission for the permit holder.  
 3-25                   (b) The commission, on its own motion after reasonable  
 3-26 notice and hearing, may require a permit holder to conform to new or  
 3-27 additional conditions to comply with this subchapter or rules  
 3-28 adopted under this subchapter.  
 3-29                   (c) A permit holder shall:  
 3-30                   (1) ensure that all permitted facility equipment is  
 3-31 located at least:  
 3-32                   (A) 100 feet from any property line, unless the  
 3-33 permit holder has obtained a written waiver from each owner of  
 3-34 property located less than 100 feet from the permitted facility;  
 3-35 and  
 3-36                   (B) 200 feet from any habitable structure, unless  
 3-37 the permit holder has obtained a written waiver from each owner of  
 3-38 the habitable structure;  
 3-39                   (2) provide a publicly accessible Internet website  
 3-40 that displays:  
 3-41                   (A) a map of the boundaries of the permitted  
 3-42 facility;  
 3-43                   (B) any interconnection request numbers assigned  
 3-44 to the permitted facility;  
 3-45                   (C) the name of the owner of the permitted  
 3-46 facility; and  
 3-47                   (D) any other information required by the  
 3-48 commission; and  
 3-49                   (3) provide evidence to the commission that the permit  
 3-50 holder has complied with Chapter 301 or 302, as applicable, by  
 3-51 providing financial assurance in the form of a bond.  
 3-52                   Sec. 35.207. MONITORING AND REPORTING. The commission by  
 3-53 rule may, in coordination with the Parks and Wildlife Department,  
 3-54 require a permit holder to:  
 3-55                   (1) monitor, record, and report on environmental  
 3-56 impacts created by the permitted facility;  
 3-57                   (2) conduct wildlife assessments around the permitted  
 3-58 facility and provide assessment results to the Parks and Wildlife  
 3-59 Department in a form and according to deadlines required by the  
 3-60 department;  
 3-61                   (3) adapt operations based on information obtained  
 3-62 under Subdivisions (1) and (2) to minimize facility effects on  
 3-63 bats, birds, and other wildlife; and  
 3-64                   (4) provide to the commission and the Parks and  
 3-65 Wildlife Department other information about the operation of the  
 3-66 permitted facility.  
 3-67                   Sec. 35.208. RENEWABLE ENERGY GENERATION FACILITY CLEANUP  
 3-68 FUND. (a) The renewable energy generation facility cleanup fund is  
 3-69 a dedicated account in the general revenue fund.

4-1           (b) The fund consists of:  
 4-2           (1) environmental impact fees collected under Section  
 4-3 35.209;  
 4-4           (2) gifts, grants, and donations; and  
 4-5           (3) legislative appropriations.

4-6           (c) Money in the fund may be used only by the commission to  
 4-7 implement this subchapter.  
 4-8           Sec. 35.209. ENVIRONMENTAL IMPACT FEE. (a) An annual  
 4-9 environmental impact fee is imposed on each permit holder.

4-10           (b) Environmental impact fees must be deposited in the  
 4-11 renewable energy generation facility cleanup fund.

4-12           (c) The fee for each year is imposed on each permit in effect  
 4-13 during any part of the year. The commission may establish reduced  
 4-14 fees for inactive permits.

4-15           (d) The commission by rule shall adopt a fee schedule for  
 4-16 determining the amount of the fee to be charged. In determining the  
 4-17 amount of a fee under this section, the commission may consider:

4-18           (1) the efficiency of the renewable energy generation  
 4-19 facility;

4-20           (2) the area and size of the renewable energy  
 4-21 generation facility;

4-22           (3) the renewable energy generation facility's  
 4-23 environmental impact score provided under Section 12.0012, Parks  
 4-24 and Wildlife Code; and

4-25           (4) expenses necessary to implement this subchapter.

4-26           Sec. 35.210. FEDERAL FUNDS. The commission may execute  
 4-27 agreements with the United States Environmental Protection Agency  
 4-28 or any other federal agency that administers programs providing  
 4-29 federal cooperation, assistance, grants, or loans for research,  
 4-30 development, investigation, training, planning, studies,  
 4-31 programming, or construction related to methods, procedures,  
 4-32 mitigation, and facilities for the removal of renewable energy  
 4-33 generation facilities. The commission may accept federal funds for  
 4-34 these purposes and for other purposes consistent with the  
 4-35 objectives of this subchapter and may use the funds as prescribed by  
 4-36 law or as provided by agreement.

4-37           Sec. 35.211. POWER TO REGULATE AND SUPERVISE. (a) For  
 4-38 purposes of this subchapter, a provision of Subchapter B or E,  
 4-39 Chapter 14, that authorizes the commission to regulate a public  
 4-40 utility also applies to a person required to obtain a permit under  
 4-41 this subchapter, including an electric cooperative and a  
 4-42 municipally owned utility.

4-43           (b) The commission may adopt and enforce rules reasonably  
 4-44 required in the exercise of its powers under this subchapter.

4-45           Sec. 35.212. ENFORCEMENT AND PENALTIES. For the purposes  
 4-46 of enforcing this subchapter, a reference in Chapter 15 to a person  
 4-47 includes any person required to obtain a permit under this  
 4-48 subchapter, including an electric cooperative and a municipally  
 4-49 owned utility.

4-50           SECTION 2. Subchapter A, Chapter 12, Parks and Wildlife  
 4-51 Code, is amended by adding Section 12.0012 to read as follows:

4-52           Sec. 12.0012. ENVIRONMENTAL IMPACT REVIEW FOR RENEWABLE  
 4-53 ENERGY GENERATION FACILITIES. The commission by rule shall adopt a  
 4-54 system for providing an environmental impact review in a format  
 4-55 established by the commission to an applicant for a renewable  
 4-56 energy generation facility permit under Section 35.203, Utilities  
 4-57 Code, based on materials provided by the applicant. The system must  
 4-58 establish:

4-59           (1) a process for a person to apply for and receive  
 4-60 from the department an environmental impact review;

4-61           (2) criteria for the department to evaluate the  
 4-62 environmental impact of a proposed renewable energy generation  
 4-63 facility, including:

4-64           (A) the facility's prioritization of  
 4-65 conservation of natural resources;

4-66           (B) continuous use of the land on which a  
 4-67 facility is located for agricultural purposes and wildlife  
 4-68 conservation management;

4-69           (C) the applicant's commitment to and planned

5-1 implementation of avoidance and minimization measures to conserve  
5-2 natural resources; and  
5-3 (D) agricultural best practices developed by the  
5-4 department in coordination with the Texas A&M AgriLife Extension  
5-5 Service;  
5-6 (3) a method for the department to provide an  
5-7 environmental impact score for a renewable energy generation  
5-8 facility, based on the criteria described by Subdivision (2);  
5-9 (4) fees for providing the environmental impact  
5-10 reviews, in an amount sufficient to cover the department's costs of  
5-11 implementing this section; and  
5-12 (5) guidelines for the department's use of any map  
5-13 applications necessary for the implementation of this section,  
5-14 including the applicant's mapping of specific areas and other  
5-15 aspects required by the department to produce an effective and  
5-16 timely review.

5-17 SECTION 3. This Act takes effect September 1, 2023.

5-18 \* \* \* \* \*